12. Mr. B. M. Peter
13. „ V. K. Krishnankutty
14. „ Ismail Hajee Essa Sait
15. „ M. K. Devassy
16. „ T. A. Ramachandra Ayyar
17. Mr. P. Govinda Menon
18. „ C. Kunhan Nambudiripad
19. „ P. Achyuta Menon
20. „ N. V. Subrayan Chetty

Noes.

1. Mr. A V. Moothedan
2. „ C. R. Iyyunni
3. „ K. Kochukunhan Kaimal
4. „ C. K. S. Moni
5. „ K. P. Kannan Nayar
6 „ P. Achyuta Menon
7. „ P. J. George
8. „ C. A. Kunjunni Raja
9. Dr. D. Raghavendra Rao
10. Rao Bahadur M. Narayana Menon
11. Mr. K. V. Menon
12. „ S. Venkateswaran
13. Rao Sahib I. N. Menon
14 Rama Varmha Tampuran
15. Mr. M. Raman Menon

Mr. Deputy President: 21 for and 15 against.

Secretary to the Council: The title of the Bill is "The Cochin Kuries Act Amendment Bill."

Mr. M. Sivarama Menon (*Ernakulam*): I beg to move that the President may be pleased to suspend the Standing Order and that the Bill may be referred to a Select Committee to which the Government Bill has been referred to consisting of the Advocate-General as the Chairman.

Mr. Deputy President: The Bill is referred to a Select Committee consisting of:— Messrs. P. Govinda Menon, V. J. Mathai, A. V. Moothedan, K. R. Viswambharan, . R. Iyyunni, M. Sivarama Menon, M. K. Devassy and The Advocate-General.

The Committee will report within three months and the Advocate-General shall be the Chairman of the Committee.

The Cochin Usurious Loans Act Amendment Bill.

Mr. T. V. Subramania Ayyar (*Nemmara*): Mr. President, Sir, I move that the Cochin Usurious Loans Act Amendment Bill be read in Council.

Mr. C. Kunhan Nambudiripad (*Urakam*): I second it.

Mr. T. V. Subramania Ayyar (*Nemmara*): I do not think that a long speech from me is required for the purpose of introducing this Bill. I will just read the Objects and Reasons which I have given along with the Bill and in case, after debate and after seeing the attitude of the Government, I think an elaborate answer is necessary, I shall avail myself of the opportunity to do so. Since the Government is at present concerned only with the acceptance or rejection of the principles embodied

LIBRARY ARCHIVES Kerala Legislative Assembly

in the Bill, I don't think a long explanatory speech is necessary. I will just in a skeleton state the scope of the Bill which I have now introduced. The Cochin Usurious Loans Act enables the court in certain cases, "notwithstanding any agreement, purporting to close previous dealings and to create a new obligation, reopen any account already taken between them and relieve the debtor of all liability in respect of any excessive interest, and if anything has been paid or allowed in account in respect of such liability, order the creditor to repay any such amount which it considers to be repayable in respect thereof;"

In all cases, where the court thinks in a suit which is heard *ex-parte* or otherwise, that the interest is excessive or that the transaction as between the parties thereto substantially unfair, this power of re-opening the subject-matter of the suit is given to the court who give relief to the debtor who is aggrieved by the collection or stipulation of excessive interest; and the rate of interest may be a sufficient reason for the court to interfere with the contract between the debtor and the creditor and in the Act as it at present stands, interest at 12 per cent is considered not unfair and any interest in excess of 12 per cent is considered unfair. My amendment seeks to reduce this 12 per cent stipulation to 6 per cent which is payable by the debtor and the creditor irrespective of the fact of the stipulation in the contract as between the parties. With regard to the point that there is great economic depression in the country at present and that more or less it had commenced at or about 1107, it is not a matter of dispute in this Council. The reference to the Select Committee of two Bills dealing more or less with this subject-matter has made it clear that this Council has accepted that the economic depression commenced at or about 1107. The necessity for the reduction of interest in view of the enormous fall in prices of the produce of agriculturists and also of the unprecedented economic depression prevailing in the country amidst all classes of the subjects of His Highness the Maharaja has been recognised by this Council in previous measures and also in previous resolutions. So I need not labour to make that point clear to this House.

Another point which I have embodied in this Bill is to bring within its scope the co-operative societies also. Because we are at this stage concerned only with the principle of the Bill, that is, the necessity for relief to debtors, there is no necessity for me to go into the details except the reading of the statement of Objects and Reasons as I proposed in the beginning. Therein I stated: "Notwithstanding the various measures

LIBRARY ARCHIVES Kerala Legislative Assembly

adopted by the Government to give relief to the agriculturists of the State against the heavy debts that they are subjected to on account of the prevailing economic depression, some additional remedy is urgently called for to save them from their creditors and from perpetual poverty and insolvency." I may also mention at this stage that this statement of Objects and Reasons was sent about six months back and that much water has flown since then. "The Madras Agricultural Relief Act has not been worked sufficiently long to enable us to know accurately how it affects the country and unless we are fully satisfied of its usefulness and suitability to our State it may not be wise to introduce a similar measure all at once without gaining experience of its working." I presume that we have now gained sufficient experience of the working. "Further the Madras Act deals only with agriculturists whereas there is great need at present to give relief to all debtors irrespective of the fact whether they are agriculturists or not." On this point also, this Government has recognised the principle, that relief must be given both to the agriculturists and the non-agriculturists by reason of the fact that it has deemed it worth-while to refer the Bill of my friend Mr. M. K. Devassy to the select committee which is now considering it. "Reasonable amendments to the Cochin Usurious Loans Act on the lines given in the adjoining Bill will, it is hoped, bring in real relief without causing any revolutionary upheaval in the economic structure of Society. The main changes contemplated in the Bill are (1) to make the Act apply to all transactions commenced on or after 1st Chingam 1107". I have explained the reason for fixing that date. "(2) to abolish the exemption granted to Co-operative Societies in the existing Act." The reason for including the Co-operative Societies within the scope of the Act is that though I don't claim to have much experience as many of the learned members of this House may have, within the limited observation which I have been able to bestow about the working of the societies, I find among the public that there is a complaint that very often these societies are taking much more interest than an ordinary creditor would do and what was intended to be a real boon to the countryside has been a cause of the ruin of the countryside itself on certain occasions. It is with a view to avoid that situation that I have sought to include the Co-operative Societies also within the scope of the Bill. And "(3) to reduce the fair rate of interest to 6 per cent per annum. The first change is sought to be introduced because the economic depression began to be felt acutely from about 1107. Co-operative Societies with their high rates of interest and penalties have hit rural credit considerably and the cry heard everywhere is for a reduction in

LIBRARY ARCHIVES Kerala Legislative Assembly

the rate of interest and penalties. Hence the proposal to bring in these Societies within the operation of the Act. The third change for reduction in the rate of interest needs no explanation. It is hoped that the Bill when passed into law will bring in considerable relief to a large number of debtors in the State."

That is my pious wish. Having explained the scope of the Bill and also after mentioning the fact that this Council has on previous occasions, both by the acceptance of the principles embodied in the Bill now before this Council and also by means of various resolutions, especially the revolutionary resolutions moved by my hon'ble friend Mr. Ibrahim, accepted the principle involved, I don't think there will be any objection from any side of this House and I hope that this Bill may be proceeded with. I may also state that this is a very moderate and innocuous measure which will be universally accepted by all the sides, both non-officials and officials, of this House and I do hope that the Government will not oppose this measure in the least. I propose that the Bill be read in Council.

Mr. C. A. Kunjunni Raja (*Advocate-General*): The Bill contemplates 3 amendments on different parts of the Usurious Loans Act. The first is to amend section 2 (3) (*a*) by omitting the words "after the commencement of this Act" and substituting "On or after the 1st day of Chingam 1107." The Act, as it stands, in clause (*b*) of the same section allows the reopening of transactions in the case of any security taken or any agreement and under clause (*c*) in the case of any security the court is given power to reopen transactions already entered into. But in the case contemplated in clause (*a*) the transactions cannot be reopened. This Act came into force on the 13th of Mithunam 1111. Generally, the period of limitation allowed for these transactions will be 3 years. So that by this time we have almost reached the period of limitation. We have only to run from this Meenam to Mithunam and by passing this amendment no useful purpose will be served.

Mr. P. Govinda Menon (*Mulakunnathukavu*): What about mortgages?

Mr. C. A. Kunjunni Raja (*Advocate-General*): With regard to mortgages clauses (*b*) and (*c*) have been referred to already by me. So that under clause (*a*) there is no useful purpose served by this amendment. This is one amendment which is absolutely useless under the present circumstances.

Then the next amendment is "in section 3 omit proviso (*ii*) of the Act 28 of 1111." That is to remove the exemption to the Co-operative Societies under the existing Act. It will be

LIBRARY ARCHIVES Kerala Legislative Assembly

seen from section 60 of the Co-operative Societies Act XXVI of 1113 passed by this Council that the Registrar is given power to execute decrees and he need not even go to civil courts for execution. Unless you amend the Act by bringing the Registrar's court also within the definition of the word 'courts', there is absolutely no use of amending this Usurious Loans Act because the Registrar is at perfect liberty to execute the decree as it stands and this relief proposed by this Bill can be given only by ordinary civil courts to which alone the Usurious Loans Act will apply. Proper amendment has to be made to the Co-operative Societies Act or a definition should be inserted in the Usurious Loans Act including the decree of the Registrar of Co-operative Societies within the meaning of the Act. With regard to Co-operative Societies the House will find them exempted under the Agricultural Debt Relief Act. It is not a transaction for profits. It is only an arrangement between members and there is every reason to give exemption with regard to them.

Then with regard to the reduction of the rate of interest, it is proposed that, in section 5 of the Act omit the words "exceeding 12 per cent per annum" and substitute "6 per cent per annum." At the same time the House will be pleased to find in 3 (2) (*e*) only interest above 12 per cent per annum shall be deemed to be excessive and it follows anything less than 12 per cent is not excessive and there is no amendment proposed to this.

Mr. T. V. Subramania Ayyar (*Nemmara*): I do observe that.

Mr. C. A. Kunjunni Raja (*Advocate-General*): Under the existing sections, Interest above 12 per cent alone shall be deemed to be excessive. By the Bill that is to be reduced to 6 per cent. What is a fair rate of interest is a matter upon which there is much controversy and there are two Bills seeking relief with regard to the rate of interest which are already committed by this House to select committees and those select committees can consider and give proper rate of interest. There is no necessity for this Bill to achieve that purpose. Especially when there is a reference to a select committee of two important Bills covering this subject and when they are to report shortly, I think it is not necessary that this Council should pass this motion.

Mr. T. V. Subramania Ayyar (*Nemmara*): I am really thankful to the Advocate-General for the very moderate language that he has used in trying to oppose this measure, and this is a foretaste of the attitude of the Government. I think before this

LIBRARY ARCHIVES Kerala Legislative Assembly

Bill reaches the second stage, Government will come round to my view, and that they will give their whole-hearted support to this measure. With regard to the objections now raised by the Hon'ble Member for Law, those are small details which we can correct at a committee stage and having agreed to the principles of the Bill, it is not necessary for us to go into the details at this stage. I move that the Bill be read in Council and I hope that the House will be with me in getting over one stage.

The motion was put and carried.

Secretary to the Council: The title of the Bill is "The Cochin Usurious Loans Act Amendment Bill."

Bill to amend the Indian Companies Act as made applicable to Cochin.

Mr. Deputy Pesident: Mr. C. R. Iyyunni will move his Bill.

Mr. T. V. Subramania Ayyar (*Nemmara*): I move.....

Mr. C. A. Kunjunni Raja (*Advocate-General*): The President has called the name of the member who is to move the next item in the agenda. So the hon'ble member cannot move.

Mr. Deputy President: If there is any objection from any part of the House, I can't allow it, because I have already called upon Mr. Iyyunni to go to the next item in the agenda, and he has got up.

Mr. T. V. Subramania Ayyar (*Nemmara*): He only got up but did not begin speaking. I was about to be on my legs. So I may be allowed to move for leave to refer my bill to a select committee.

Mr. P. Govinda Menon (*Mulakunnathukavu*): The Chair has got the right to allow the hon'ble member to speak.

Mr. Deputy President: In these matters when there is opposition from one section of the House, it is better that it is not allowed to deviate from the strict procedure.

Mr. M. K. Devassy (*Adur*): The other day when the Caste Disabilities Removal Bill was discussed, the President allowed it.

Mr. Deputy President: But that was when that Bill was before the House. This Bill is no more before the House. In that case the question was a different one. The President allowed the hon'ble member Mr. T. K. Nayar to move an amendment that the Bill, then before the House, may be referred to a select committee. In the present case, we have proceeded to the next item on the agenda and I have

LIBRARY ARCHIVES Kerala Legislative Assembly